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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,615	05/02/2001	Yukinori Terahama	520.35693CX1	5679

24956 7590 03/01/2005

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

VU, THONG H

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,615

Applicant(s)

TERAHAMA ET AL.

Examiner

Thong H Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Amended claims 9-17 are pending. Claims 1-8 and 18-19 are cancelled. The Final action is followed.

Response to Amendment

2. Applicant's arguments with respect to claims 9-17 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 9-17 are rejected under the judicially created doctrine of double patenting over claims 1-16 of U. S. Patent No. 6,256,661 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

('661) 1. A method for connecting terminals in a remote consulting system by using a computer system including a lobby terminal for use by a customer when issuing an inquiry for consultation, a clerk terminal for use by a special expert clerk to reply to an inquiry for consultation, an unattended agent server having functions of storing past inquiry and reply data, sending to said lobby terminal reply data corresponding to an inquiry from said lobby terminal, and taking over an inquiry and reply with said lobby terminal, a connection server for making connections between lobby terminals and clerk terminals, and maintaining a connective status of the clerk terminals, and communication lines for providing connections between said terminals and said servers, said method comprising the steps of:

monitoring by said connection server, to determine whether a clerk terminal corresponding to said consultation is connectable or not;

connecting said lobby terminal issuing said inquiry for consultation to a connectable clerk terminal corresponding to said consultation, and connecting said lobby terminal issuing said inquiry for consultation to said unattended agent server when there is no connectable clerk terminal;

changing, by said connection server, a connection to said lobby terminal from said unattended agent server to a clerk terminal when said clerk terminal becomes connectable during a consultation between said lobby terminal and said unattended agent server; and

sending from said unattended agent server to said clerk terminal exchange information concerning the consultation between said lobby terminal and said unattended agent server, said exchange information being used by said clerk terminal to take over the consultation.

(Application) 9. A consulting system for replying to an inquiry from a customer, comprising:

a plurality of clerk terminals for use by an expert clerk to reply to said inquiry from said customer; and

a connection management apparatus for managing connections, said connection management apparatus comprising:

monitoring means for monitoring connective status of each of said clerk terminals,

storage means for storing data related to an expert clerk corresponding a connectable expert clerk terminal,

extraction means for extracting said data related to said expert clerk corresponding said connectable expert clerk terminal, and

sending means for sending a list of said data related to said expert clerk corresponding to said connectable expert clerk terminal, to a terminal for use by said customer, so that said customer can select an expert clerk related to said connectable clerk terminal; wherein:

each of said clerk terminals sends data showing that connection is possible to said connection management apparatus when connection with said terminal for use by said customer is ended said monitoring means of said connection management apparatus changes a connective status of said clerk terminal from "connected" to "connectable" based on said data showing connectable.

(claim 10) connecting means for connecting said terminal for use by said customer to an unattended agent server when there is no expert clerk corresponding to an inquiry from said customer;

judging means for judging that a clerk terminal corresponding said expert clerk to reply to said inquiry from said customer has become connectable, referring to said connective status of each of said clerk terminals;

changing means for changing connection of said terminal for use by said customer, from said unattended agent server to said clerk terminal clerk that has become connectable, in accordance with the result of the judgment performed by said judging means and

sending means for sending communication between said customer and said unattended agent server to said clerk terminal that has become connectable.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-17 are rejected under 35 U.S.C. §103 as being unpatentable over Beshears et al [Beshears, 5,621,884] in view of Mayo et al [Mayo, 5,751,965].

4. As per claim 9, Beshears discloses a consulting system for replying to an inquiry from a customer [Beshears, consulting its arp table, col 13 lines 57-65; inquiry message, col 5 line 45-col 6 line 10], comprising:

a plurality of clerk terminals for use by an expert clerk to reply to said inquiry from said customer [Beshears, inquiry message, col 5 line 45-col 6 line 10]; and
a connection management apparatus for managing connections [Beshears, an arbitrator computer, col 12 lines 11-64], said connection management apparatus comprising:

monitoring means for monitoring connective status of each of said clerk terminals [Beshears, monitor service, col 6 lines 3-et seq],

storage means for storing data related to an expert clerk corresponding a connectable expert clerk terminal [Beshears, database, col 3 lines 1-24],

extraction means for extracting said data related to said expert clerk corresponding said connectable expert clerk terminal [Beshears, detects activities, col 12 lines 11-64; obtaining state of health information, col 15 lines 5-25], and

each of said clerk terminals sends data showing (i.e.: displaying, viewing) that connection is possible to said connection management apparatus when connection with said terminal for use by said customer is ended [Beshears, displaying arbitrator computer status, col 9 lines 1-9],

said monitoring means of said connection management apparatus changes a connective status of said clerk terminal from "connected" to "connectable" based on said data showing connectable [Beshears, monitor service, col 6 lines 3-et seq; an active computer, a standby computer and substituting a spare computer, col 15 lines 5-25].

However Beshears does not explicitly detail sending means for sending a list of said data related to said expert clerk corresponding to said connectable expert clerk terminal, to a terminal for use by said customer, so that said customer can select an expert clerk related to said connectable clerk terminal;

A skilled artisan would have motivation to improve the monitoring process on Beshears's apparatus and found Mayo's teaching. Mayo discloses a network monitor and display connection status including the hot-spots selectable by a user [Mayo, col 2 line 58-col 3 line 64].

Therefore, it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the display connection status and user selects the link based on the possible color/status of each connection as taught by Mayo into the Beshears's apparatus in order to utilize the monitoring process. Doing so would provide a quick, simple and reliable process to monitor and control the network connections.

5. Claims 10,15 Beshears-Mayo disclose connecting means for connecting said terminal for use by said customer to an unattended agent server when there is no expert clerk corresponding to an inquiry from said customer [Beshears, an arbitrator computer, col 12 lines 11-64];

judging means for judging that a clerk terminal corresponding said expert clerk to reply to said inquiry from said customer has become connectable, referring to said connective status of each of said clerk terminals [Beshears, an arbitrator computer, col 12 lines 11-64];

changing means for changing connection of said terminal for use by said customer, from said unattended agent server to said clerk terminal clerk that has become connectable, in accordance with the result of the judgment performed by said judging means [Beshears, a switchover, col 12 lines 1-10; changed to new router, col 14 lines 17-30]; substituting a spare computer, col 15 lines 5-25] and

sending means for sending communication between said customer and said unattended anent server to said clerk terminal that has become connectable [Beshears, an arbitrator computer, col 12 lines 11-64].

6. Claim 11, Beshears-Mayo disclose storage means for storing past reply to said inquiry of said customer; retrieving means for retrieving said past reply corresponding to said inquiry; and sending means for sending said past reply to said terminal for use by said customer, in accordance with said inquiry from said customer [Beshears, database, col 3 lines 1-24].

7. Claim 12, Beshears-Mayo disclose a terminal for use by said customer [Beshears, Fig2].

8. Claim 13, 14 and 17 contain the similar limitations as set forth in claim 1. Therefore, claims 13,14,17 are rejected for the same rationale set forth in claim 1.

9. Claim 16, Beshears-Mayo disclose means for setting a priority of consultation of said expert clerk (i.e.: highly skilled network administrator) in accordance with the frequency of the past consultation of said expert clerk [Mayo, administrator, col 1 lines 66, col 6 line 15; color code or priority, col 10 lines 3-25], wherein said extraction means extracts said data related to said expert clerk corresponding said connectable second

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terminal, in accordance with said priority [Beshears, detects activities, col 12 lines 11-64; obtaining state of health information, col 15 lines 5-25].

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

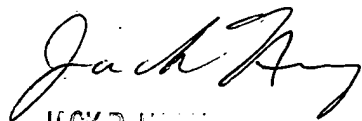
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the organization where this application or proceeding is assigned is 703-872-9306

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Patent Examiner
Art Unit 2142


JACK D. HARVEY
SUPERVISOR, PATENT EXAMINING

